



PTO/SB/65 (03-09)
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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

BOX M

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(b))**

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

04/16/2012 DALLEN 00000003 5745932
01 FC:1599

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: 5,745,932

Application Number: 755,393

Issue Date: May 5, 1998

Filing Date: Nov. 26, 1996

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original issue date _____;
original application number _____
original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application
_____ filed on _____

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

APRIL 10, 2012
Date

David L. Barovetto
Signature

DAVID L. BAROVETTO
Typed or printed name of person signing Certificate

[Page 1 of 4]

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 ½ yr fee	(1551)	<input type="checkbox"/> \$ _____	3 ½ yr fee	(2551)
<input type="checkbox"/> \$ _____	7 ½ yr fee	(1552)	<input type="checkbox"/> \$ _____	7 ½ yr fee	(2552)
<input checked="" type="checkbox"/> \$ 2,365	11 ½ yr fee	(1553)	<input type="checkbox"/> \$ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of \$ 700 (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED \$ 700

5. MANNER OF PAYMENT

- ☒ Enclosed is a check for the sum of \$ 3,065.00
- ☐ Please charge Deposit Account No. _____ the sum of \$ _____
- ☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

- ☒ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. Wells Fargo 028

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7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. _____

OR

☒ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

9. PETITIONER(S) REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

David L. Barovetto
Signature(s) of Petitioner(s).

APRIL 10, 2012
Date

David L. Barovetto

Typed or printed name(s)

Registration Number, if applicable.

P.O. Box 269 Sun Valley, Idaho 83353

(208) 726-8620

Address

Telephone Number

Address

ENCLOSURES:

- ☒ Maintenance Fee Payment
☒ Statement why maintenance fee was not paid timely
☒ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)
☐ Other: _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."


Signature

APRIL 10, 2012
Date

David L. Barovetto

Type or printed name

Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

(Please attach additional sheets if additional space is needed)



SHOWING THE DELAY IN TIMELY PAYMENT

My wife of twenty-five years – Paula – and I conceived of the idea of a pyramidal shaped- hot tub cover in 1992 after struggling with a waterlogged cover and discussing the options. As an Architect I envisioned a pyramidal shape to shed snow and have the ability to prop upright on the sides of the tub to provide privacy and protection from the wind. We set about to develop the idea with Styrofoam and then wooden prototypes. The design evolved to fit the shape and size of many of the hot tubs and as the design became stable we submitted for a patent in 1996 and the patent was issued in May 5 1998.

We invested considerable funds to have rotational molds built, provide marketing materials, design attachment hardware requiring additional injection molds, purchase packaging and set about on a marketing campaign. As we attempted to bring this product to the marketplace we paid our 3 ½ year and 7 ½ year maintenance fees to protect our patent.

We attended trade shows at considerable expense and as a continued marketing effort we traveled around the region visiting hot tub dealers to promote our product. These efforts were well received conceptually however the dealers were for the most part conservative and reluctant to purchase a revolutionary new product. We recognized that this marketing effort was both expensive and not providing the exposure we were seeking. Our resources were shrinking and we realized we were unable to introduce our product to the ultimate consumer. Unfortunately at about the same time we found Paula was diagnosed with cancer and our three children and I focused on her health and put the dream of our Spa Shelter on the shelf until her recovery. Despite her struggle and our efforts she passed away in 2009 and we faced life without her. During this time our third maintenance fee became due and passed without our recognition.

Now with the monumental impact of the Internet and social media we have the access to market our product directly to the consumer. We have modified the ability of the individual buyer to purchase our product and install it on their tubs themselves. As a tribute to Paula and the belief that our Spa Shelter has a value as an option to the standard hot tub cover we are continuing our efforts to manufacture and offer our product to the marketplace.

I submit this application and hope that the circumstances warrant the acceptance of our maintenance fee and our patent reinstated.

Sincerely;

David Barovetto

April 9, 2012